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FINANCING OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991

FINANCING OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR GENOCIDE AND OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF RWANDA AND RWANDAN CITIZENS RESPONSIBLE FOR GENOCIDE AND OTHER SUCH VIOLATIONS COMMITTED IN THE TERRITORY OF NEIGHBOURING STATES BETWEEN 1 JANUARY AND 31 DECEMBER 1994

Sixth report of the Advisory Committee on Administrative and Budgetary Questions

I. INTRODUCTION

1. The Advisory Committee on Administrative and Budgetary Questions has considered the reports of the Secretary-General on the financing of the requirements of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/C.5/51/30) and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/C.5/51/29 and Corr.1) for 1997. During its consideration of these matters, the Advisory Committee met with the Prosecutor and the Registrars of the Tribunals and with representatives of the Secretary-General who provided additional information.

2. As indicated in paragraph 4 of document A/C.5/51/30, and paragraph 4 of document A/C.5/51/29, the Secretary-General's 1997 budget proposals for the Tribunals for the former Yugoslavia and for Rwanda are limited to the present establishment as approved for 1996 and augmented by the minimum items needed to carry out the ongoing work of the Tribunals in 1997. The Advisory Committee notes that the Secretary-General intends to submit revised 1997 budget proposals for the Tribunals, upon conclusion of the reports by the Office of Internal Oversight Services, requested by the General Assembly in resolutions 50/212 C, paragraph 8, and 50/213 C, paragraph 9, of 7 June 1996. The General Assembly had requested the Secretary-General to entrust the Office of Internal Oversight Services with the undertaking, without prejudice to their programme of work, an inspection of the Tribunals, "with a view to identifying problems and recommending measures to enhance the efficient utilization of resources, and to report thereon to the General Assembly at its fifty-first session".

3. Upon request, the Advisory Committee was informed that the reports of the Office of Internal Oversight Services would be finalized by the end of December 1996. The Secretary-General's revised 1997 budgets for the Tribunals will be submitted subsequently, taking full account of the recommendations contained in the Office's reports. The Advisory Committee requests that these revised estimates be submitted for its review by 3 February 1997; they should be issued as addenda indicating changes to documents A/C.5/51/30 and A/C.5/51/29 and Corr.1.

4. In this connection, the Advisory Committee reiterates its request that the reports of the Secretary-General on the Tribunals should also specifically make reference to previous recommendations of the Advisory Committee, as endorsed by the General Assembly, indicating whether action has been taken and the time framework for full implementation of recommendations (A/50/925, para. 3). The Advisory Committee further reiterates its views in paragraphs 6 and 10 to 13 of its report A/50/925, which were endorsed by the General Assembly in paragraph 1 of its resolution 50/212 C. The Advisory Committee requests the Secretary-General to ensure compliance with its recommendations in formulating the revised budgets.

II. FINANCIAL REQUIREMENTS FOR THE INTERNATIONAL TRIBUNAL FOR THE FORMER YUGOSLAVIA FOR 1997

5. In his report, the Secretary-General proposes provisions of $58,863,500 gross ($53,475,800 net) for the financing of the International Tribunal for the Former Yugoslavia for 1997. The proposal includes an increase of $19,173,428 gross ($18,045,178 net) over the total appropriation of $39,690,072 gross ($35,430,622 net) appropriated by the General Assembly for 1996 in its resolutions 50/212 A of 23 December 1995 and 50/212 C (see A/C.5/51/30, paras. 2 and 5).

6. As indicated in paragraph 7 of document A/C.5/51/30, the Secretary-General's proposed staffing table for 1997 for the Tribunal comprises 373 posts (excluding 11 judges), reflecting an increase of 36 additional posts (15 for the Office of the Prosecutor and 21 for the Registry). In addition to the 337 temporary posts approved for 1996, the Tribunal has 55 gratis personnel

as at 31 October 1996 (A/C.5/51/30, table 3 (c)). The Advisory Committee was informed that as at 15 November 1996 there were 63 posts vacant, comprising 29 posts in the Office of the Prosecutor (23 Professional and 6 General Service posts) and 34 posts in the Registry (22 Professional and 12 General Service posts).

7. The Advisory Committee was informed of changes in the composition of the Chambers in the past year (see also A/51/292-S/1996/665, para. 6). In this connection, the Advisory Committee wishes to recall section IV of General Assembly resolution 50/216 of 23 December 1995, by which the Assembly requested the Secretary-General to address, at the fifty-third session of the Assembly, the issue raised by the Advisory Committee in its report A/50/7/Add.11, paragraph 14. Since the terms of office of some of the Tribunal's judges will expire in 1997 and some of them may not seek reappointment, the Advisory Committee recommends that the Secretary-General, after consulting with the United Nations Legal Counsel, report to the Assembly through the Advisory Committee in the context of the addenda to be submitted early in 1997, on how to deal with the issue of the departing judges.

III. FINANCIAL REQUIREMENTS FOR THE INTERNATIONAL TRIBUNAL FOR RWANDA

8. With respect to the International Tribunal for Rwanda, the Secretary-General proposes an appropriation of $51,415,200 gross ($46,732,700 net), reflecting an increase of $11,253,300 gross ($10,238,000 net) over the 1996 appropriation (General Assembly resolution 50/213 C).

9. The Secretary-General's proposed staffing table for 1997 for the Tribunal comprises 403 posts (excluding 6 judges), reflecting an increase of 21 posts over the 382 posts established as temporary posts for 1996. The Advisory Committee notes that all the additional posts are for the Registry (see A/C.5/51/29, tables 3 and 9). The Tribunal has in addition 32 gratis personnel as at 31 October 1996. The Advisory Committee was informed that as at 1 November 1996 there were 37 posts vacant, comprising 18 in the Office of the Prosecutor (15 Professional and 3 General Service posts) and 19 in the Registry (12 Professional, and 2 Field Service and 5 local staff).

10. During the discussion on staffing issues of the Tribunal, the Advisory Committee was informed of redeployment of authorized posts in the staffing table among the various organizational units of the Tribunal to meet urgent requirements. The Registry had to borrow posts from other units over and above those on its own staffing table. In this regard, the Advisory Committee requests the Secretary-General to address this issue prior to his submission of the report on the Tribunal mentioned in paragraph 3 above. The Secretary-General should provide an up-to-date staffing table for each organizational unit and report on total deployment of resources among units of the Tribunal. The Advisory Committee reiterates that the allocation of approved resources should take into account the need to accord high priority to investigation and prosecution.

IV. CONCLUSIONS

11. The Advisory Committee points out that delays in recruitment have already affected the start-up and follow-up phases of both Tribunals. At the International Tribunal for Rwanda, recruitment of international staff has also been affected because delegated authority to appoint this class of staff in the name of the Secretary-General has not been granted. The Advisory Committee has recommended in the past that consideration should be given to granting the Tribunal for Rwanda delegation of authority in personnel matters (see A/50/923, para. 7). The Advisory Committee emphasizes that cost-cutting measures introduced at Headquarters, with a view to realizing across-the-board savings in the Organization's regular budget, should not apply to the Tribunals' special accounts without specific authorization by the General Assembly.

12. Under the circumstances, the Advisory Committee recommends that, pending the receipt of revised estimates for 1997 for the two Tribunals, the General Assembly maintain for 1997 the same appropriation levels approved for 1996 for the Tribunals but with existing staff calculated at full cost, actual 1997 rental cost and deletion of non-recurrent 1996 costs. In this connection, the Advisory Committee points out that it has not pronounced itself on any of the proposals for new posts; all proposals for new posts should be submitted in the context of the revised budgets mentioned in paragraph 3 above.

13. Upon request, the Advisory Committee was informed that requirements for 1997 mentioned in paragraph 13 above would amount to $47,377,100 gross ($42,293,800 net) for the International Tribunal for the Former Yugoslavia and $46,229,900 gross ($41,742,200 net) for the International Tribunal for Rwanda. Consequently, the Advisory Committee recommends that, at the present stage, the General Assembly appropriate these amounts for 1997 for the Tribunals for the Former Yugoslavia and for Rwanda, respectively. The assessment of these amounts could take into account the unencumbered balances as at 31 December 1996. In this connection, the Advisory Committee was informed that the projected unencumbered balance for the International Tribunal for Rwanda, in respect of 1996, is $12 million. As for the International Tribunal for the Former Yugoslavia, the Advisory Committee was informed that the unencumbered balance is estimated at $5 million.

14. The Advisory Committee believes, as indicated in paragraph 45 of its report A/50/925, that the resources appropriated and authorized for the Tribunals should be administered with flexibility consistent with the Financial Regulations and Rules of the United Nations. The Advisory Committee expects to revert to the issue of the total resources needed by the Tribunals and comment in detail on the matter during its examination of the Secretary-General's reports mentioned in paragraph 3 above.

15. Furthermore, the Advisory Committee recommends that the Secretary-General prepare comprehensive performance reports for 1996, indicating how resources were utilized, including both assessed and voluntary contributions. The report should compare actual expenditures with the amounts budgeted and explain in detail reasons for variations in the application of funds from the original intended purposes.

16. As can be seen in paragraphs 6 and 9 above, both Tribunals are utilizing gratis personnel. The Advisory Committee notes that donors are charged 13 per cent support costs in respect of these personnel. In a previous report on the International Tribunal for the Former Yugoslavia (A/49/7/Add.12, para. 39), the Advisory Committee recommended that the Secretary-General issue specific guidelines on the requirements for receipt of contributions and application of funds for the International Tribunal for the Former Yugoslavia. In its report A/50/925, paragraph 9, the Advisory Committee pointed out that the Secretary-General has not yet issued specific guidelines for the receipt of contributions and application of funds for the Tribunal, as requested by the General Assembly in paragraph 13 of resolution 49/242 B. In paragraph 7 of that report the Advisory Committee had stated that the 13 per cent charge was "a policy issue that needs to be addressed by the General Assembly, especially with regard to personnel provided free of charge to the United Nations to occupy posts which would otherwise have been funded from assessed contributions". The Secretary-General has since issued, on 21 November 1996, a report on gratis personnel provided by Governments and other entities (A/51/688). Owing to the late issuance of this report, the Advisory Committee is not in a position to complete its consideration of the matter before the end of 1996. It will revert to its consideration of gratis personnel during its winter session (February/March 1997) and in that context will, inter alia, make recommendations on this issue as it affects the Tribunals.